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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,891	08/21/2001	David Schmeltzle	323/1	6370
27538	7590	01/14/2005	EXAMINER	
KAPLAN & GILMAN, L.L.P. 900 ROUTE 9 NORTH WOODBIDGE, NJ 07095			LIEN, TAN	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No.

09/933,891

Applicant(s)

SCHMELTZLE ET AL.

Examin r

Tan Lien

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 8 (the second claim 8) has been renumbered 9.

Misnumbered claim 9 has been renumbered 10.

Misnumbered claim 10 has been renumbered 11.

Misnumbered claim 11 has been renumbered 12.

Misnumbered claim 12 has been renumbered 13.

Misnumbered claim 13 has been renumbered 14.

Misnumbered claim 14 has been renumbered 15.

Claims 12 and 13 are objected to because of the following informalities:

As to claim 12, there are no transitional words to mark where the preamble ends and where the body of the claim starts, and the Examiner don't know whether it is an open system or a closed system by reading the claim. The Examiner believes this claim may be a dependant of other independent claims

because there is nothing novel about this claim, which basically is about providing a password to get into a system.

As to claim 13, "wherein a the" is improper. It should be "wherein said password" instead of the improper form.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Ruffen et al (RFC 2643 "Cabletron's SecureFast VLAN Operational Model Version 1.8"), hereinafter referred to as RFC2643.

Claim(s) 1, 4: RFC2643 teaches a distributive system for establishing and controlling communication service to individual users in a multiple occupant facility, comprising:

(a) a computer (pages 8-10, section 2.2; wherein the computer is the VLAN switch that is administered by the LAN administrator)

(b) a connection from a communication service provider to the computer so as to provide external communication from a plurality of sources (page 8-10; section

2.2; wherein the connection is provided by a communication service provider that provides VPN);

(c) a plurality of communication devices connected to the computer (pages 8-10, section 2.2; wherein the endstations are communication devices); and

(d) whereas the computer is programmed to be able to provide selected communication service utilities to individual ones of the connected communication devices (page 10, section 2.2.3; wherein the switch can be programmed to select any port to be a member of a VLAN group), and wherein communications devices are arranged in groups such that administrative functions performed by an administrator affect only communications devices within the group (page 6, Virtual LAN (VLAN) identifier; wherein the logical grouping of ports are only affect communications devices within the group).

Claims 1-5 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hunter et al (US Patent 4,764,919).

Claim(s) 1, 4, 8: Hunter teaches a distributive system for establishing and controlling communication service to individual users in a multiple occupant facility, comprising:

(a) a computer (FIG. 1, ref. 10; wherein the switching system is the computer);

(b) a connection from a communication service provider to the computer so as to provide external communication from a plurality of sources (col. 1, lines 30-40;

wherein the central office is the communication service provider attaching to the switching system allowing outside access);

(c) a plurality of communication devices connected to the computer (FIG. 1, ref. 1056, 1055, 1006, 1005); and

(d) whereas the computer is programmed to be able to provide selected communication service utilities to individual ones of the connected communication devices, and wherein communications devices are arranged in groups such that administrative functions performed by an administrator affect only communications devices within the group (col. 2, lines 10-25).

Claim(s) 2: Hunter teaches the distributive communication system of claim 1, wherein the communication devices are individual telephone extensions (Abstract; wherein the virtual PBX are providing the telephone extensions within a group).

Claim(s) 3: Hunter teaches the distributive communication system of claim 1, wherein the communication devices are exist in occupant groups that occupy separate facilities within the multiple occupant facility (col. 2, lines 15-23; wherein the customer groups are served by an on-premises switch).

Claim(s) 5: Hunter teaches the method of claim 4, further comprising

modifying communication services to the individual communication devices (col. 2, lines 15-17; wherein with a high degree of customer control and flexibility, a customer administrator can modify communication services to end users).

Claim(s) 7: Hunter teaches the method of claim 4, further comprising the step of deactivating selected communication services from selected of the communication devices for which the selected communication services had been established (col. 19, lines 60-65).

Claim(s) 9: Hunter teaches the apparatus of claim 8, wherein the telecommunications parameters includes a parameter that determines whether calls between equipment may be made through an outside communications company or internal to said apparatus (Abstract; by nature of a PBX system, internal calls are made by dialing extensions and outside calls are dialed with a '9' + phone number to get to the central office).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter in view of Wilson et al (US PGPub 2002/0009078).

Claim(s) 10, 11: Hunter teaches the apparatus of claim 8, and suggests billing the stations in each group (col. 20, lines 28-30), but fails to explicitly state

a software which bills users of said apparatus based at least in part upon square footage leased within a building and/or in part on a number of customer equipment ports associated with said apparatus.

Wilson, in an analogous art, teaches billing based on the room from which the client registers when using port identification and other factors (paragraph [0342]). It would be obvious to one of ordinary skill in the art at the time of the invention to combine Hunter's virtual PBX apparatus for establishing and controlling communication services such as billing with Wilson's billing system for billing clients based on customer room from which the client registers when using port identification, for the advantage of facilitating billing clients by applying policies with discounts and others (paragraph [0308-344] Wilson).

Claims 6 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter in view of Ju (US Patent 5,261,061).

Claim(s) 6, 12, 13, 14, 15: Hunter teaches the method of claim 4, fail to teach the step of



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requiring a password to access the computer for establishing and modifying the communication services.

Ju, in an analogous art, teaches providing a log ID and a password to log into a system that allows an operator to perform the Maintenance and Administration command of the PBX (col. 5, lines 58-64). It would be obvious to one of ordinary skill in the art at the time of the invention to combine Hunter's method for establishing and controlling communication services with a virtual PBX with Ju's method of maintaining and administering remotely a switchboard with a computer that requires password to access, for the advantage of facilitating the control of a computer without having physically being there (col. 1, lines 45-60 Ju).

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Tan Lien whose telephone number is (571) 272-3883. The examiner can normally be reached on Monday-Thursday from 8:30am to 6pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharja, can be reached at (571) 272-3880. The fax phone number for this Group is (703) 305-3718.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [tan.lien@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.



**RUPAL DHARIA**  
**SUPERVISORY PATENT EXAMINER**